

LAND COURT
FILED

COMMONWEALTH OF MASSACHUSETTS
Department of the Trial Court

19 MAR -4 PM 2:42

Barnstable, ss

LAND COURT DEPARTMENT
No. 19 MISC 000009 (MDV)

THE HAVEN CENTER, INC. and
MACARTHUR PARK PLACE LLC,
Plaintiffs,

v.

TOWN OF BOURNE and
PETER J. MEIER,
JUDITH MACLEOD-FROMAN,
JAMES L. POTTER,
GEORGE G. SLADE, and JARED P.
MACDONALD, as
Members of the Board of Selectmen
of the Town of Bourne,
Defendants.

DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR PROTECTIVE ORDER

Now come the defendants, the Town of Bourne and Bourne Board
of Selectmen, and respectfully assert their Opposition to Plaintiff's
Motion for a Protective Order as follows:

Plaintiffs move to Quash the Deposition Notices of the two Party Plaintiffs because they have "...moved this Court to dismiss Counts III and IV of its Complaint." Here, Plaintiffs admit that the predicate of their Motion is contingent upon an event that has not happened. At the least, Plaintiffs' Motion should be denied because it is premature. Absent the Land Court Judge's Decision on the distinct Motion to Dismiss Counts III and IV, all of the conclusions in the second sentence of Paragraph 2 of Plaintiffs' Motion are unjustified and are merely conjectures. Plaintiffs' Motion needs to be judged in the reality of the current posture of the case in which the Plaintiffs have sought relief in Counts that are still vibrant.

Plaintiffs' assertions in Paragraph 3 shares the identical burden. If and when the Land Court Judge dismisses Counts III and IV of the Complaint that Plaintiffs filed, the Plaintiffs will then have standing to argue that a copy of one of the Plaintiff's deed strips the Town of the right to depose the Plaintiff that is the landowner. Even then, Plaintiffs' Motion fails to present any reason why the Chief Executive of the Haven Center, Inc. - the operator of the proposed retail marijuana establishment in Bourne - should be immune from Deposition.

Plaintiffs' argument in Paragraph 4 misses the mark. The level of the Defendant's knowledge about factual circumstances does not obviate

the Town's right to conduct Discovery nor does Plaintiffs' Counsel's opinion about what Defendant's Counsel needs for discovery establish a reason why Defendant's right to utilize the Rules authorizing the Defendants to depose the Plaintiffs in an action filed by the Plaintiffs.

Wherefore, the Defendants, Town of Bourne and the Members of the Board of Selectmen of the Town of Bourne respectfully request that this Honorable Court deny Plaintiffs' Motion for Protective Order.

Dated: March 1, 2019

Respectfully submitted for the
Defendants,
TOWN OF BOURNE and BOURNE
BOARD OF SELECTMEN,
By their attorney,



Robert S. Troy
Bourne Town Counsel
BBO#503160
Troy Wall Associates
90 Route 6A
Sandwich, MA 02563
(508) 888-5700
rst@troywallassociates.com